IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

WP(C).No. 5242 of 2004(Y)

PETITIONERS:

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1. PADMANABHAN PRABHU, AGED 75 YEARS,
S/O.NARAYANA PRABHU,
KANNANPARAMBU, NORTH PARAVOOR.

2. P.VENUGOPAL, AGED 36 YEARS,
S/O,.PADMANABHA PRABHU, SOLE PROPRIETOR,
SREE RAGHAV CEMENTS, OPP.SREE VENKITESWARA
KALYANA MANDAPAM, REPUBLIC ROAD,
NORTH PARAVOOR.

BY ADV. SMT.P.V.PARVATHI
SMT.REENA THOMAS

RESPONDENTS:

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1. UNION OF INDIA REP. BY ITS SECRETARY,
MINISTRY OF DEFENCE,
CENTRAL SECRETARIATE, NEW DELHI.

2. BANK OF INDIA, REPRESENTED BY ITS
ZONAL MANAGER AND AUTHORISED OFFICER,
ZONAL OFFICE, KERALA TOWERS,
KALOOR-KADAVANTHRA ROAD, ERNAKULAM.

3. DEBTS RECOVERY TRIBUNAL, ERNAKULAM,
REP. BY ITS REGISTRAR.

BY ADV. SRI.P.K.RAVINDRAN PUZHANKARA for R2
SMT.JAYASREE MANOJ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.5242/2004 Y

APPENDIX

PETITIONER'S EXHIBITS;

EXT.P1: COPY OF THE RELEVANT PORTION OF O.A.NO.83/2001.

EXT.P2: COPY OF THE WRITTEN STATEMENT FILED BEFORE THE DRT IN O.A.83/2001.

EXT.P3: COPY OF THE NOTICE ISSUED UNDER SECTION 13(2) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS & ENFORCEMENT OF SECURITY INTEREST ACT, 2002 DTD. 19/12/2003 SERVED ON THE FIRST PETITIONER BY THE SECOND RESPONDENT.

EXT.P4; COPY OF THE NOTICE ISSUED UNDER SECTION 13(2) OF THE SECURITISATION AND RECONSTRUCTION FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT 2002 DTD. 19/12/2003 SERVED on the SECOND PETITIONER BY THE SECOND RESPONDENT.

/TRUE COPY/

P.A.TO JUDGE

KSS

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 5242 OF 2004

Dated this the 13th day of August , 2007

JUDGMENT

This writ petition is posted in the defect list as the first respondent has not been served. But I find that service is already completed and that there is no defect.

2. This writ petition is filed by the debtors, who owes substantial amounts to the 2nd respondent Bank, seeking a declaration that the Securitisation and Reconstruction of Financial Assets & Enforcement of Security Interest Act 2002 is ultravires the Constitution. They also seek a declaration that Exts.P3 and P4 which are notices under Section 13 (2) issued under the Securitisation and Reconstruction of Financial Assets & Enforcement of Security Interest Act are illegal. The Supreme Court has already upheld the constitution vires of the Securitisation Act and in view of that the main relief sought for in the writ petition cannot be granted. As regards the other reliefs, the petitioners are having statutory remedies.

Leaving open the statutory remedies available to the petitioners against Exts.P3 and P4 open this writ petition will stand dismissed.

However, order of stay presently passed will continue for a period of three more weeks from today.

PIUS C. KURIAKOSE,
JUDGE.

Dpk